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March 8, 2004

JOHN CONYERS, JR., Michigan
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The Honorable Antonin Scalia
Associate Justice
Supreme Court of the United States
One First N.E.
Washington, DC 20543

Dear Mr. Justice Scalia:

I am writing regarding increasingly disturbing reports that you have *ex parte* meetings with persons who have cases pending before the Supreme Court. I would ask that you reconsider your standard of recusal and explain your decisions not to recuse yourself in various cases that have come to light.

I recently have learned that you attended a fundraiser for the Urban Family Council, a group that advocates discrimination against homosexuals, while the Court was deliberating *Lawrence v. Texas*, a case with that very issue at its heart. It has always been a fundamental tenet of judicial ethics that judges will decline to express an opinion about cases scheduled on the judicial docket; in fact, it is for that very reason that many of the current Administration's judicial nominees have refused to answer questions about their personal positions on issues.

As you are well aware, current law provides that you must disqualify yourself "in any proceeding in which [your] impartiality might reasonably be questioned." Despite this governing law, you have not recused yourself from *In re: Cheney* despite having accompanied Vice President Cheney, a party in the dispute, on a hunting trip. It was then discovered that you were a guest speaker at the University of Kansas Law School when that school's dean was managing two cases pending before the Court. You also went hunting with state officials involved in the cases. The Urban Family Council fundraiser is the latest in this series of revelations.

I understand that the law gives you the discretion to determine when your impartiality might reasonably be questioned, and I would like to know whether you considered recusal in each of these cases and, if so, how you ultimately determined you could be an impartial arbiter of

The Honorable Antonin Scalia

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the law in each instance. If you did not consider recusal in any of these cases, please explain the rationale for your decision. Please reply through Perry Apelbaum or Ted Kalo of the Judiciary Committee staff, 2142 Rayburn House Office Building, Washington, DC 20515 (tel: 202-225-6504; fax: 202-225-4423).

Sincerely,

A handwritten signature in black ink, reading "John Conyers, Jr." in a cursive style. The signature is positioned above the printed name and title.

John Conyers, Jr.
Ranking Member

cc: The Honorable F. James Sensenbrenner, Jr.
Chairman
U.S. House Committee on the Judiciary